

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOYCE JACKSON,

Plaintiff,

-against-

NATIONAL RAILROAD PASSENGER
CORPORATION,

Defendant.

ORDER TO SHOW CAUSE

20-CV-06797 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff Joyce Jackson (“Plaintiff”) alleges that she fell and suffered injuries while traveling on a passenger train. Defendant National Railroad Passenger Corporation (“Defendant”) removed this action from the Supreme Court of the State of New York, County of Westchester on August 24, 2020. (Doc. 1, “Not. of Removal”). Defendant filed its Answer to the Complaint on August 28, 2020 (Doc. 6), and the Court scheduled an Initial Pretrial Conference for October 14, 2020 (Doc. 7; Oct. 1, 2020 Entry). Plaintiff failed to appear for the October 14, 2020 Initial Pretrial Conference and the conference was adjourned until October 21, 2020. (Oct. 14, 2020 Entry). The Court held an Initial Pretrial Conference on October 21, 2020 and thereafter issued a Civil Case Discovery Plan and Scheduling Order and referred the matter to Magistrate Judge Krause for the purpose of settlement. (Oct. 21, 2020 Entry; Docs. 9, 10). Judge Krause attempted to schedule a settlement conference on multiple occasions, but due to Plaintiff’s failure “to comply with the Court’s simple and straightforward requirement for a pre-conference submission” and disregard for the Court’s orders, no settlement conference was ever held. (Doc. 16). By letter dated February 24, 2021, Defendant requested a pre-motion conference in anticipation of moving to compel discovery noting that Plaintiff had failed to respond to written discovery requests or provide initial disclosures. (Doc. 17). Defendant noted further that they had attempted to meet and confer with

Plaintiff to address these issues, but Plaintiff had ignored the meet and confer requests. (*Id.*) By text-only order dated March 3, 2021, the Court directed Plaintiff to respond to Defendant's February 24, 2021 letter. (Mar. 3, 2021 Entry). By letter dated March 4, 2021, Defendant notified the Court that Plaintiff's deposition was noticed for March 5, 2021, but that Plaintiff had informed Defendant that Plaintiff was not prepared to go forward with the deposition and provided no alternative dates for the deposition. (Doc. 18). To date, Plaintiff has not responded to either of Defendant's letters.

Under Federal Rule of Civil Procedure 41(b), "a district judge may, *sua sponte*, and without notice to the parties, dismiss a complaint for want of prosecution . . ." *Taub v. Hale*, 355 F.2d 201, 202 (2d Cir. 1966); *West v. City of New York*, 130 F.R.D. 522, 524 (S.D.N.Y. 1990); *Lewis v. Hellerstein*, No. 14-CV-07886, 2015 WL 4620120, at *3-4 (S.D.N.Y. July 29, 2015); *Haynie v. Dep't of Corr.*, No. 15-CV-4000, 2015 WL 9581783, at *1-2 (S.D.N.Y. Dec. 30, 2015).

Plaintiff has not filed a response to two letters filed by Defendant which noted Plaintiff's failure to participate in discovery and has ignored multiple court orders issued by this Court and/or Magistrate Judge Krause. Plaintiff's failure to prosecute this action has impeded the Court's efforts to "avoid calendar congestion and ensure an orderly and expeditious disposition of cases." *Cortez v. Suffolk Cty. Corr. Facility*, No. 15-CV-1957, 2016 WL 6302088, at *2 (E.D.N.Y. Oct. 25, 2016).

Accordingly, it is hereby ORDERED that Plaintiffs show cause in writing on or before March 25, 2021 as to why this action should not be dismissed without prejudice for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b). Failure to comply with this Order shall result in dismissal of this case for want of prosecution.

SO ORDERED:

Dated: White Plains, New York
March 11, 2021



PHILIP M. HALPERN
United States District Judge